

City of Blue Ridge

480 West First Street • Blue Ridge, Georgia • (706) 632-2091

City Council Meeting

December 21, 2021

5:00 p.m.

City Hall

MINUTES

Present

Mayor: Donna Whitener

Council Members: Rhonda Haight, Nathan Fitts, Mike Panter, Robbie Cornelius

Finance Director: Michael Richardson

Zoning, Land Development, and Project Manager: Jeff Stewart

Street Department Supervisor: Tony Byrd

City Clerk: Amy Mintz

1) Call Meeting to Order

Mayor Donna Whitener called meeting to Order.

2) Prayer and Pledge of Allegiance

Council Member Robbie Cornelius led the prayer.

Mayor Donna Whitener led the Pledge of Allegiance.

3) Approval of Minutes from Previous Meeting

a) November 16, 2021 – City Council

Council Member Mike Panter made a motion to accept the minutes.

Council Member Rhonda Haight seconded the motion.

All in Favor.

b) December 7, 2021 – Public Hearing

Council Member Mike Panter made a motion to accept the minutes.

Council Member Rhonda Haight seconded the motion.

All in Favor.

c) December 7, 2021 – Special Called (employment approval)

Council Member Rhonda Haight made a motion to accept the minutes.

Council Member Mike Panter seconded the motion.

All in favor.

4) Approval of Agenda or Motion to Amend Agenda (if applicable)

Mayor Donna Whitener asked to amend the agenda and allow Discussion Item 17, Tacie Jo with the 2020 financial statement come before the action agenda items

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Council Member Rhonda Haight made a motion to amend the agenda and move Tacie Jo with the 2020 Financial statements after public comments.

Council Member Mike Panter seconded the motion.

All in favor.

Public Comments (for all speakers who have signed up the previous week):

1) Cesar Martinez – DDA Update

Chairman Cesar Martinez explained Board Member Nichole has already met with the vendors for signage and still needs to meet with Ace Hardware. Mr. Martinez stated Nichole has already met with the other group and they are outlining where some of the signs need to go.

Chairman Martinez stated Board Member Russell is currently working with someone who will fix the internet and cell availability in downtown. Mr. Martinez said as soon as he has all the information together, he will bring it to the council.

Chairman Martinez stated the next item is the next DDA meeting. Mr. Martinez advised the next meeting would be January 3rd, and would fall before the next council gets sworn in. Mr. Martinez stated the meeting is generally when they bring the council in, so he will be postponing the meeting until February 7th, 2022.

2) Cesar Martinez – BRBA Update

Chairman Cesar Martinez explained they will be having their 11th annual fire and ice festival on February 19th, 2022.

3) Donna Thompson – Development

Audience member Donna Thompson came to the podium to voice her concerns. Ms. Thompson stated she had a few questions regarding the Kiker development that is going to be voted on at tonight's meeting.

Ms. Thompson stated it is disappointing that we are not hearing questions from the guys from the last meeting. Donna stated the council approved this project asking that final plans return to the council for final approval but have been no dimensions or details provided so it is impossible for the council to make a responsible decision without the information.

Ms. Thompson said she would like for someone to tell the concerned citizens what the elevation is going to be at the street level to the top of the building. Ms. Thompson advised she has been contacted by builders and they are estimating the building will be over 90 foot at street level at the intersection. She asked if this was the reason for details being hidden from the public by the developer, property owner and the city council. Ms. Thompson stated impact studies should have been required.

Donna stated to not ask questions, represent, and protect the city is negligent on your part. Ms. Thompson voiced concerns regarding traffic volume, turn lanes, sidewalks, storm drains, water, sewer, and police. She stated comparing it to the Searles request it shows tremendous

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discrimination or preferential treatment. She advised there is less information here than there was on the Searles request, yet no questions being asked.

Donna stated at the last meeting three council members voiced concerns for a potential lawsuit and are basing your vote on a threat of the lawsuit or on the city ordinances. She said the question remains, who empowered the city attorney to make decisions without the knowledge of the city council. Attorneys are very selective about their words and one incorrect or misused word in a document can change the interpretation of the entire document.

Donna stated Mr. Balli stated in a letter to Mrs. Doss that Kiker is not limited by the current moratorium and may construct the building as shown on the approved elevation. Ms. Thompson asked who approved the elevation and when, how and by whom was it done and when did the decision transfer from judge Kiker to wham development.

Donna stated grandfathering usually does not always transfer with the sale of property. She advised the council she had a petition signed by approximately 750 people with numerous comments.

4) Richard Arnold – Rezoning on West Fain, Special Land Permit East 2nd

Moved to speak during public hearing for the properties.

5) Richard Arnold – Kiker property

Richard Arnold came up to the podium to voice concerns. He stated he did not have much to add after the points Donna Thompson made. He said you can tell by looking at the audience that the majority of the people present are opposed to the development of the condos.

Richard stated every time he drives by the property, he thinks of the way they have it set in the drawings, you will be looking at a wall that will basically block out the sun. He said we can't stop them from building something in CBD at 35 feet like it states in the ordinance. He stated if the owners and developers are really wanting to work with the community, they should come up with another plan to set it differently on the property. Mr. Arnold stated the city and the county do not want the condos.

Discussion Agenda Items (Items for discussion only):

1) Auditor Tacie Jo – 2020 Financial Statements - MR

Mayor Donna Whitener advised Tacie Jo works with Walker and Welch and does the City's audit at the end of the year.

Tacie Jo stated she is an engagement partner and has ben work on the City of Blue Ridge audit for several years. She advised they finished the audit in September and had another clean audit this year as they have had in the past. Tacie said they had a few things change on the 2020 financial statement, one being the DDA. She said now that they have revenues and expenses it is now a separate column on the financial statement.

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Tacie stated overall the financials looked good and only had one finding, segregation of duties, which is the same finding they have had for a few years now. Tacie stated the City is doing the best they can with the resources and staff we have. She said they do like that the Mayor and Council continue to be involved in the finances, which is one of the mitigating factors to our risks and gives an added level of protection.

Tacie advised they did have an elected official contact them regarding a tax issue, and since they are auditors, it does have to be reported. She stated they did look at taxes closer for the 2020 because the issue raised to them was in a year that had not been audited. She said when looked at they were happy to see the issue had been resolved and the uncollected amount remained at an immaterial amount.

Tacie stated other than that they did not have any findings that she thought needed brought to the council's attention.

Mayor Whitener stated one of the things that probably did not work in our favor along with other cities was the pandemic.

Tacie stated one thing they did test during the pandemic was whether the cities controls were still functioning. She stated the signatures where who they were supposed to be, the invoices were still approved, purchase orders existed, and the council approved the invoices even though there was trouble having meetings.

Action Agenda Items (Items requiring the approval of the Council):

- 2) Rezoning Request: Martin Velasques 51, 61, 71 West Fain Street. Proposed C2 (General Commercial) From R1 (Low Density Residential)

Mayor Donna Whitener opened the Public Hearing.

- a) Allow Applicant 10-Minuties to Present His or Her Case.

Martin Velasques came up to the podium to present. Mr. Velasques stated he owns restaurants in Atlanta and bought property in Blue Ridge because he believes it would be a good location for his restaurant.

Kristen Young also came up to the podium to help speak on behalf of Mr. Velasques. Mrs. Young stated the property is located by Home Depot and is surrounded by other commercial property. Mrs. Young said they have a demo permit and have already taken the houses down on their property.

Kristen Young advised they have an easement going into the property behind where body plex and the auto parts store is located for easy access and will not hinder traffic on Highway 5.

Richard Arnold came up to the podium and advised he was not opposing the property but wanted to voice his opinions. Mr. Arnold advised accessing West Fain Street off Highway 5 is dangerous. He stated he would like to see when the easement goes in an easy access road straight to West Fain Street versus having to pull into a parking lot and go around their customers to access the road.

- b) Allow Opposing Parties 10-Minuties Collectively to Present His or Her Case.

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No opposing parties.

Mayor Donna Whitener closed the public hearing.

- c) Planning Commission Recommendation for First Public Hearing on December 7th, 2021.

Zoning, Land Development, and Project Manager Jeff Stewart came up to podium to present. Mr. Stewart said the property is in an island surrounded by commercial and believes it should all be commercial. Mr. Stewart said he has no objecting to the rezone. He believes it should all be commercial.

Council Member Mike Panter made a motion to approve all lots go from R2 to C2 with general upgrades to water and sewer at the owner's expense.

Council Member Rhonda Haight seconded the motion.

ROBBIE (X) MIKE (M) RHONDA (S)

All in favor. Motion passed.

Council Member Nathan Fitts arrived late.

- 3) Special land Use Permit / Short Term Rentals Request: Abigail Engles 529 East Second

Mayor Donna Whitener opened the Public Hearing

- a) Allow Applicant 10-Minuties to Present His or Her Case.

Abigail Engles came up to the podium to present. She stated it is her property and when she purchased it, she believed it was already zoned for R3 in the tax records. Mrs. Engles said she believed she would be approved after re applying. She stated the surrounding establishments are either commercial or short-term rental. She advised she works with Georgia Mountain Cabin Rental and the people she rents out to are 25 years and older, vetted by the company and makes the renters pay in advance.

Mrs. Engles said her plan is for her and her family to retire to Blue Ridge in four years and does not want to do anything that would leave a negative impact or footprint on the town.

Mrs. Engles advised how the property was listed for sale stated it was a peacefully furnished home that is an established vacation rental.

Council Member Rhonda Haight stated she saw the Sellers Property Disclosure and it stated on there that the buyer would have to reapply.

Council Member Nathan Fitts stated also on the Disclosure it says all information is deemed reliable but is not guaranteed. Council Member Mike Panter noted it also says no conditions and no restrictions.

- b) Allow Opposing Parties 10 Minutes Collectively to Present His or Her Case.

Richard Arnold came up to the podium to voice his opinions on the matter. Richard advised he makes his living off short-term rental management. He stated last time the property was turned down at a planning and zoning meeting and turned down at the city council meeting. He advised the owners had paid their taxes after renting it out for several months, which made a binding contract with the city, so the city had to come back and let them keep it as a short-term rental.

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Mr. Arnold stated he believes every short-term rental special permit has been denied and would be setting a bad president if the city approves this one. He stated most of the residents in the city do not want the short-term rental.

Mayor Donna Whitener closed the Public Hearing.

c) Planning Commission Recommendation for First Public Hearing on December 7th, 2021.

Zoning, Land development, and Project Manager Jeff Stewart came up to give his recommendations. Jeff stated he did not have much to add other than the property has been rented all this time until it was sold. Mr. Stewart stated it is part of the ordinance it can be approved if the council voted for it. He stated nightly rentals are allowed in any commercial, C1, C2, CBD and M1, not in residential unless they have a special land use permit.

Council Member Rhonda Haight advised she visited the neighbor to this residence, unrelated to this, approximately two months ago and the neighbor voiced concerns about people constantly coming and going. They also have a fire pit in the back and would stay up late causing a disturbance for her. Mrs. Haight said based on that she does not agree with it being approved. Council Member Nathan Fitts stated the way he looks at it, is why do they set ordinances in place if they are not going to follow them. Mr. Fitts said he has been against it from the beginning. Mr. Fitts said if we are going to have the ordinance in place, we need to either follow it or don't have it at all.

Council Member Rhonda Haight stated the new incoming council has talked about adding to the ordinance so there is no variance. Mrs. Haight said she believes it is also putting more pressure on the zoning board when they come before them, because the ordinance states short-term rentals are not allowed in residential. Mrs. Haight stated she wants to protect the residential areas.

Zoning, Land Development, and Project Manager Jeff Stewart said having the special land use permit that people can apply for is giving false hope. He stated he would agree to change the ordinance.

Council Member Rhonda Haight made a motion to deny the special land request.

Council Member Nathan Fitts seconded the motion.

ROBBIE (NO) MIKE (X) NATHAN (S) RHONDA (M)

3-1. Motion passed to deny permit.

4) GDOT Hothouse Creek water line project – BH

Mayor Donna Whitener advised this is a water line that needs to be relocated. Mayor Whitener explained this is a project that can be put out for bid under the bid amount. Mayor Whitener said the time frame has continued to be pushed out so they may have time go through a bid process if wanted. Mayor Whitener stated it would probably be under \$100,000 dollars but could also get three quotes if preferred. Mayor Whitener said the task release for Carter and Sloope has already been approved for this project, so the final plans are ready there just needs to be a decision on if the project will be put out for bid or just take three quotes.

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Council Member Rhonda Haight asked if they were certain the project would be under the \$100,000 dollars. Mrs. Haight stated this project need to be completed since it has already been pushed out several times.

Mayor Donna Whitener stated the council has not pushed it off, GDOT pushed it out and she believes it will not start in January. Mayor Whitener said even if the money is let in January, the project will not start until June or July.

Council Member Rhonda Haight stated she believed Matt said the project would start in January. Mayor Whitener stated if the money is let that does not mean they are ready to write a check, it just means the money is allocated.

Mayor Donna Whitener said GDOT has moved and changed the project several times. Mayor Whitener said it is up to you (Rhonda) if you want to try and bid it out or get three quotes. Council Member Rhonda Haight stated she would prefer to bid it out to make sure if it does happen to be over \$100,000 dollars since they need it done, or the water lines will be under concrete.

Zoning, Land Development, and Project Manager Jeff Stewart mentioned the process will be longer if it is put out for procurement. Council Member Rhonda Haight stated Mayor Whitener seems to think the project will not start in January, so by putting it out for procurement they are safeguarding the \$100,000 dollars. Mayor Donna Whitener stated it could always be changed in January with the new council, but at least this will start the process.

Mayor Whitener clarified for the new council and audience that this project is to move a water line because most every bridge in the stated of Georgia is being replaced or repaired. Mayor Whitener said the State of Georgia was not sure with the pandemic about the funding they would have so they moved a lot of the projects out.

Mayor Whitener stated the engineering has been done and the council has approved it and now the decision needs to be made on if they are going to bid the project out or get three quotes.

Council Member Nathan Fitts made a motion to put the GDOT PI642170 out for a bid.

Council Member Rhonda Haight seconded the motion.

ROBBIE (X) MIKE (X) NATHAN (M) RHONDA (S)

All in favor. Motion passed.

5) ETC Service Agreement Renewal – DW

Mayor Donna Whitener explained she had mentioned this to Court Clerk/ Office Manager Barbie Gerald and thought we were renting our system, but decided it was purchased. Mayor Whitener stated she did not know if the new council would want to renew the contract or get quotes. Mayor Whitener said she believes the systems were brand new last year or the year before.

Mayor Whitener said they could look at changing if wanted or to stay with ETC, which gives a 25% discount.

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Council Member Nathan Fitts asked if it could wait 30 days and maybe the new council could work on new quotes.

Mayor Whitener advised the contract covers all the city buildings. Mayor Whitener stated she does not think ETC is going to disconnect the service to receive the discount, so if they want to wait and let the new council vote. Council Member Nathan Fitts stated he thinks the new council should have time to review and discuss what options they have.

Mayor Donna Whitener stated her suggestion would be to table this.

Council Member Nathan Fitts made a motion to table the ETC Service Agreement.

Council Member Mike Panter seconded the motion.

ROBBIE (X) MIKE (S) NATHAN (M) RHONDA (X)

All in favor. Motion passed.

6) Water Plant Surveillance System – BH

Mayor Donna Whitener advised they received two quotes for surveillance systems, and they are very different in cost. One is \$24,257.00 and the other one is \$8,251.70.

Mayor Whitener suggested to pass to the next council, because one of the newly elected council members is an expert in this technology. Mayor Whitener said there are currently cameras at the water plant that are operational.

Council Member Rhonda Haight said she is fine with tabling this for the next council because they have also discussed with the new council who will be monitoring the security as well.

Council Member Nathan Fitts made a motion to table the security and surveillance estimates at the water plant.

Council Member Mike Panter seconded the motion.

ROBBIE (X) MIKE (S) NATHAN (M) RHONDA (X)

All in favor. Motion passed.

7) Budgeted Cost of Living Raises – DW

Mayor Donna Whitener advised they had budgeted four percent for the cost of living raises.

Mayor Whitener stated she heard on the news where the cost of living is approximately five or six percent, but it was already budgeted as four percent and would start with the January payroll.

Mayor Whitener stated she recommend they go ahead and pass the four percent since it was already budgeted and if the new council wants to up the raise, it would be up to them.

Council Member Mike Panter made a motion to approve the budgeted four percent raises to all employees.

Council Member Nathan Fitts seconded the motion.

ROBBIE (X) MIKE (M) NATHAN (S) RHONDA (X)

All in favor. Motion passed.

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8) FEMA Determination Memo – DW

Mayor Whitener explained this is regarding the project on Bullen Gap. She stated FEMA said they are not going to be paying a portion of the project. Mayor Whitener said the water line was on the edge of the road and not the center. Mayor Whitener stated we had lost the edge of the road, so we had to put the water line back to the center. She advised they also had other issues on that road, so we went ahead and paved it.

Mayor Whitener stated FEMA is not going to pave anything from Mountain Tops to the line so there needs to be an appeal when the new council comes in.

Council Member Rhonda Haight stated the new council has already been working on this and she believes what happened is the road was paved beyond the scope of the work. Mrs. Haight said the FEMA area was up until Mountain Tops and the road was paved beyond that.

Council Member Rhonda Haight advised she spoke with previous Financial Advisor Alicia Stewart and what should have been done was the remainder of the road should have gone through our purchasing policy. Mrs. Haight advised what happened was FEMA came in and said we put approximately \$300,000 dollars into paving, and they would give the money up until as certain point. Mrs. Haight stated they should have never turned in the rest of it since it was non-FEMA related.

Council Member Rhonda Haight stated Johnson paving gave the original submitted, which included all work done and the council will send back along with the appeal the part that was not included in the FEMA, which was the \$25,000 dollars, which should have not been turned in to begin with because it was not part of the natural disaster area.

Council Member Mike Panter asked if the restructuring of the water lines is included. Council Member Rhonda Haight stated no, the water lines were included in the original, and only went to Mountain Tops entrance. Mrs. Haight stated they have already been reimbursed for the \$65,000 on that. She stated what is being disputed is the paving bill because we went beyond the scope of where the natural disaster occurred.

Mayor Donna Whitener stated it should have been two separate invoices from Johnson paving. Council Member Rhonda Haight stated FEMA was requesting supporting documents where the paving was done, and the only thing sent back from the City stated the area paved was correct. Mrs. Haight stated the dispute stated the applicant confirmed that this is correct, FEMA also requested maintenance records which the applicant stated there is none.

Mayor Donna Whitener stated Street Supervisor Tony Bird kept up with the maintenance records. Council Member Rhonda Haight stated Street Supervisor Tony Byrd was not involved in this project, it was Zoning, Land Development, and Project Manager Jeff Stewart and Mayor Whitener.

Council Member Rhonda Haight said Finance Director Michael Richardson will be working on the appeal and will submit it to the before the deadline in January.

9) Sublease/ Blue Ridge Scenic Railway – DW

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Mayor Donna Whitener said while talking to the Chamber, the railroad and the bicycle company had already spoke and they had not. Mayor Whitener suggested for all companies to speak regarding this since the bicycle company is wanting to lease a portion of the caboose. Mayor Whitener suggested this item be tabled for the new council.

Council Member Rhonda Haight stated she has been in contact with all of them and they are fine with it. Mrs. Haight said they are subleasing the caboose and they are going to offer a space to them so they can have a ticket area.

Mayor Donna Whitener asked Council Member Rhonda Haight who she spoke with at the chamber that agreed. Council Member Rhonda Haight advised she spoke with Christy and Mike at the Chamber. Mrs. Haight stated she believed they did not have a problem with this unless they told Mayor Whitener differently.

Mayor Donna Whitener stated she believes all companies would like to meet with the Council to discuss.

Council Member Nathan Fitts made a motion to table the Sublease.

Council Member Mike Panter seconded the motion.

ROBBIE (X) MIKE (S) NATHAN (M) RHONDA (X)

All in favor. Motion passed.

10) Resolution to adopt Hazard Mitigation Plan – AM

City Clerk Amy Mintz advised she has been in contact with Robert Graham who stated most changes to the Mitigation Plan was in the mitigation's actions.

Council Member Rhonda Haight stated this is something that does need to be completed because we can not get FEMA funding unless it is in place, so we need to reactivate this and do a resolution. Mrs. Haight said Robert Graham advised the only changes came from the population, stakeholders and what they would consider high risk areas.

Council Member Rhonda Haight made a motion to approve the resolution to accept Hazard Mitigation Plan.

Council Member Mike Panter seconded the motion.

Mayor Donna Whitener read the Hazard Mitigation Plan Resolution (attached to minutes)

Council Member made a motion to approve the resolution to accepting the Fannin County Hazard Mitigation Plan.

Council Member Nathan Fitts seconded the motion.

ROBBIE (X) MIKE (X) NATHAN (S) RHONDA (M)

All in favor. Motion passed.

11) Robbman Scott Kiker and Wellington Ford 200 West 1st Street

Council Member Rhonda Haight stated at the last meeting they asked to get a legal opinion regarding the development and the opinion came in last Thursday and was sent out to all current and new council members.

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Council Member Mike Panter stated the legal opinion came in on the 15th and the same attorney applied for the City Attorney position on the 16th, and he believes that is a conflict of interest.

Council Member Rhonda Haight stated she did not think it is a conflict of interest, and believes he is very qualified and would be prepared on this case.

Council Member Rhonda Haight read the legal opinion sent from Smith Conerly. (Attached to minutes). Mrs. Haight stated the Attorneys opinion is they are not grandfathered in and are many reasons as to why they are not. Mrs. Haight said one of the reasons being they do not grandfather things according to the ordinance.

Mrs. Haight stated the Attorney has provided factual background, legal analysis, and his opinion (five-page document) is they should adhere to the 35-foot height requirement.

Council Member Mike Panter stated he also has an opinion dated December 15th from Attorney James Balli and asked if Council members would like a copy.

Council Member Nathan Fitts stated no, he has seen the letter and disagrees. Council member Mike Panter asked Council Member Nathan Fitts if he had seen the letter dated December 15th and addressed to him. Council Member Rhonda Haight stated the letter was not sent out to the rest of the council members.

Council Member Nathan Fitts asked why the City Attorney would only send the opinion to Council Member Mike Panter and not the rest of the council.

Council Member Nathan Fitts stated policy says if one thing is sent to one council member it is sent to all council members.

Council Member Mike Panter read the legal opinion sent from James Balli. (Attached to minutes)

Council Member Nathan Fitts stated he believes they never received an answer on why Mr. Balli made a decision based on the city council when the city council did not vote on anything.

Council Member Rhonda Haight stated she was not going to discuss this item long and made a motion, based on the legal opinion of Smith and Conerly, the Robbman Scott Kiker and Wellington Ford property located at 200 West First Street be denied a building permit for a 60-foot building, which did fit previous zoning, and follow the 35- foot ordinance that is currently in place as per the CBD zoning. Mrs. Haight said they will come back to the council as the planning commission recommended and submit final plans that meet these requirements.

Council Member Nathan Fitts seconded the motion.

The Attorney for the Kiker property stated that is a garbage legal opinion.

Mayor Donna Whitener stated it also says in the legal opinion from Smith Conerly that if his understanding of the operative facts is incorrect it could affect the legal analysis set forth.

Council Member Rhonda Haight stated she is willing to chance it, because the city is worth fighting for.

Mayor Donna Whitener asked the Attorney for the Kiker property if he would like to speak.

Council Member Rhonda Haight stated the Attorney has had his chance to speak when he came

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to the Council Meeting for the public hearing. Mrs. Haight stated she has made a motion and there is a second.

Mayor Donna Whitener stated she is still the mayor and can ask if the Attorney would like to speak.

Mayor Donna Whitener stated they have a first and second so there is discussion.

Mayor Donna Whitener asked Council Member Rhonda Haight to restate her motion.

Council Member Rhonda Haight made a motion, based on the legal opinion of Smith and Conerly, the Robbman Scott Kiker and Wellington Ford property located at 200 West First Street be denied a building permit for a 60-foot building, which fit the previous zoning ordinance, with that they will follow the 35-foot ordinance that is currently in place as per their CBD zoning. Mrs. Haight said they will come back to the council as the planning commission recommended and submit final plans that meet these requirements prior to receiving a building permit.

The Kiker Attorney stated that Georgia Law requires him to preserve constitutional challenges, so he needs to raise them now if he is going to raise them later. He stated there already were issues of abuse of discretion, arbitrary and capricious action, and the fact they are basing this off a reading of a legal opinion on a standard that requires a factual application, the reason that judges and juries exist to begin with, when there is not a chance that the Attorney had any information that applies to those standards.

The Attorney stated his understanding was the council was going to get a legal opinion and he was going to have a chance tonight to speak on it. He stated for the purposes of the city councils' actions, he wants to reserve right now that if the city council decides to deny this permit based on the legal opinion, those are the constitutional challenges of that action are abuse of discretion, arbitrary and capricious action, giving a domain and taking without just compensation.

The council stated they are ready to vote.

Council Member Robbie Cornelius stated she does not agree with Council Members Rhonda Haight and Nathan Fitts.

Council Member Rhonda Haight clarified she is stating no, it should be 35-foot and not 60-foot.

Council Member Mike Panter stated he is saying yes, it should be exactly the way it was approved by the planning and zoning and the council.

Council Member Rhonda Haight stated it was never approved to begin with.

Council Member Mike Panter advised he is going based off City Attorney James Ballis' opinion.

Council Member Rhonda Haight wanted to clarify that Council Members Robbie Cornelius and Mike Panter are stating the building to be 60-feet.

Council Member Rhonda Haight stated in the summary of intent for rezoning submitted by Scott Kiker, which was not done correctly and believes it could be appealed, one partner who has 25% interest did not sign the agreement. Mrs. Haight stated everyone on the deed has to

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sign, if it is an LLC, you must submit a resolution showing who has authority to sign. She stated the first issue goes back to the beginning, and believes the zoning was not done correctly. Council Member Rhonda Haight stated it is in her opinion that this is an invalid zoning because the partner did not sign the zoning request. Mrs. Haight stated it goes on to say the proposed use is condominiums, three stories and is why the planning commission wanted him to come back to the council because of the ambiguous plans.

The Attorney stated at the Planning commission meeting they stated parking plus four. Council Member Rhonda Haight stated the entire zoning application was done incorrectly from the beginnings and questions if it was truly rezoned if done incorrectly.

Council Member Rhonda Haight stated her vote is no, they should have to follow the 35-foot. Mayor Donna Whitener stated she heard from the audience and is hearing rumors that people are willing to pay them off to go away. Mayor Whitener asked the Attorney how much they are currently at with this project. The Attorney stated they are at 21 million dollars currently for this project.

Mayor Donna Whitener stated she listened to the planning and zoning commission and John Suave made a comment that this will be a good fit and the gateway to the City of Blue Ridge. Council Member Rhonda Haight stated at three stories, which is on his application, let it be the gateway and come in.

Council Member Rhonda Haight stated they have two Council Members saying no and two yeses and that leaves Mayor Donna Whitener to have the deciding vote.

Mayor Donna Whitener advised the town does have the infrastructure.

Mayor Donna Whitener stated to pass it for their zoning and plans.

Council Member Rhonda Haight stated there are no renderings and have been no final elevations.

Mayor Donna Whitener stated to move on to purchasing approvals.

Purchasing Approvals:

12) Go Green Spray Foam (Depot) – NF

Council Member Nathan Fitts made a motion to approve in the amount of \$3,570.75.

Council Member Mike Panter seconded the motion.

ROBBIE (X) MIKE (S) NATHAN (M) RHONDA (X)

All in favor. Motion passed.

13) Carter & Sloope – Invoice numbers 25822 and 25819 – BH

Council Member made a motion to approve invoice 25822 in the amount of \$7,675.00 and invoice 25819 in the amount of \$4,530.00.

Council Member Mike Panter seconded the motion.

ROBBIE (X) MIKE (S) NATHAN (M) RHONDA (X)

All in favor. Motion passed.

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14) Stites Road (paving quotes) – JS

Mayor Donna Whitener advised at mineral springs park there is a road that goes around the back side that the county owns part and now the city owns part of it. Mayor Whitener stated this road is heavily traveled within the city. Mayor Whitener stated the County owns part of the road and paved it a few years back. Mayor Whitener stated a lot of the school buses use the road.

Zoning and land development Jeff Stewart stated the city would pave up to where the County started and would finish it out.

Council Member Rhonda Haight stated Street Supervisor Tony Byrd and herself went out and look at it and she is fine with paving it. Mrs. Haight advised there are also three other city roads that she would like to have paved as well. Mrs. Haight stated they have been putting money into those with gravel and fixing potholes.

Mrs. Haight said she does not have a problem with paving Stites road but thinks the city needs to pave the others as well.

Street Supervisor Tony Byrd stated the other roads needing paved will be Wilson Street, Waldrop, Card Lane, and the access road to the water plant.

Council Member Mike Panter stated Card Lane is not a city street. Council Member Rhonda Haight stated it is a city street and has a public city sign.

Street Supervisor Tony Byrd stated he pulled the plat, and it is a city street. Council Member Rhonda Haight stated if it is determined to not be a city street, they will take it off the list.

Council Member Rhonda Haight made a motion to approve the paving of Stites Road and use Johnson Paving in the amount of \$23,219.65

Council Member Nathan Fitts seconded the motion.

ROBBIE (X) MIKE (X) NATHAN (S) RHONDA (M)

All in favor. Motion passed.

15) Mountain Tops Pump Station Emergency Repair Ratification – BH

Mayor Donna Whitener explained it is a pump station emergency repair and just needs to be ratified. Mayor Whitener stated she did not believe we have received quotes for the repair yet.

Zoning and Land Development Jeff Stewart advised Utility Director Rebecca Harkins said they are still working on getting the quotes and repairs done.

Mayor Donna Whitener stated this will need to be tabled for the next council. Mayor Whitener said there are pictures of the leak and since the workstations are so old, they must have a lot of work done. Mayor Whitener stated they may need to consider this a big project, especially once they do the water lines in there.

Council Member Mike Pater made a motion to table this until the next council.

Council Member Nathan Fitts seconded the motion.

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16) Replacement for gutters on Baugh House – JS

Zoning and land development Jeff Stewart stated he has been working on this for several months. Jeff advised the gutters and down spouts are old on the house and need replacement. He stated he received two quotes and one is significantly higher than the other. The higher quote of the two is for galvalume gutters, which is what they have now, and the other quote is to replace them with traditional gutters.

Mayor Donna Whitener asked if any of the council members knew if the Baugh house was on the historical registry, and if so, the gutters will have to be kept the same as they have it now. Mayor Whitener suggested this item be tabled to give time to check if the Baugh house is on the historical registry.

Council Member Mike Panter made a motion to table.

Council Member Nathan Fitts seconded the motion.

ROBBIE (X) MIKE (M) NATHAN (S) RHONDA (X)

All in favor. Motion passed.

17) Dye Electric Invoices – MR

Finance Director Michael Richardson came up to the podium to speak on this issue. Mr. Richardson explained in late November we received 27 invoices from Mr. Dye dating back from work performed in 2010 through 2021. Michael stated he has talked with department heads and was able to verify as much as he could, that the work was requested by the city and performed.

Mr. Richardson stated according to accounting principles, you are supposed to report expenses in the period in which they occurred in and is not possible for \$35,000 of the \$38,000 since they predate 2021. Mr. Richardson said he met with Mr. Dye regarding this and asked why we were just now receiving the invoices and Mr. Dye explained his workload exceeded his capacity. Council Member Rhonda Haight stated we have been paying him periodically for work done, but never submitted these invoices.

Finance Director Michael Richardson stated he researched the statute of limitations for billing, and it is six years.

Council Member Rhonda Haight explained at the end of each year they do a final ratification of the budget and they have been finalized for years and believes this is irresponsible to not turn in invoices. Mrs. Haight stated this creates an issue on many levels, since those budgets have already been finalized, the expenses will come out of the new budget.

Council Member Mike Panter stated Mr. Dye has done work for him in the past and has always had the issue of not turning invoices in on time.

Mayor Donna Whitener asked Mr. Richardson if any of the department heads said some of the invoices should have not been billed. Council Member Rhonda Haight stated the majority of the invoices were done by Mayor Whitener, and some done over budget and not turned in. Mrs.

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Haight stated Court Clerk/ Office Manager Barbie Gerald had signed some stating she knew the work was done but was not at her request.

Mr. Ricardson stated he spoke with Mr. Dye regarding the invoices and stated the invoices received is the total of what he intended to bill the city for work done. Mr. Richardson stated he believes there should be a time frame in which Mr. Dye has to submit his invoices for work done.

Council Member Rhonda Haight stated she does not feel comfortable paying the invoices and would prefer to speak to an attorney and table this issue.

Council Member Mike Panter stated his recommendation is to pay him up until the six years.

Finance Director Michael Richardson stated the only issue is most of the dates for the invoices were estimate by employees from their recollection.

Council Member Nathan Fitts stated he does not feel comfortable with voting on it and spending taxpayers' money.

Council Member Rhonda Haight stated she would like to get an Attorney's opinion before they vote to pay him for the six years.

Council Member Nathan Fitts made a motion to pay Mr. Dye for the last six years of invoices immediately.

Council Member Rhonda Haight seconded the motion.

ROBBIE (X) MIKE (X) NATHAN (M) RHONDA (S)

All in favor. Motion passed to pay Mr. Dye for past six years of invoices totaling in \$28,995.44.

Executive Session (if needed)

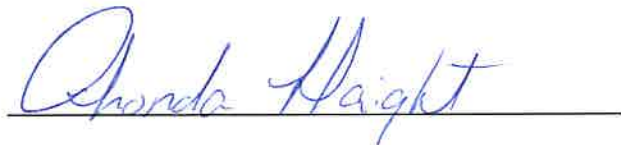
Not needed.

Adjournment

Council Member Mike Panter made a motion to adjourn the meeting.

Council Member Rhonda Haight seconded the motion.

All in favor.



Mayor, Rhonda Haight



City Clerk, Amy Mintz

February 15, 2022

Approved

